

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1910 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHREE GAYATRIKURPA GYANDEEP EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

MR R.N. Shah for Mr. M.R. Shah for Petitioner

MR RM DESAI for Respondent No. 1

Respondent Nos. 2 & 3 served

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 22/07/97

ORAL JUDGEMENT

Rule. The learned counsel appearing for the respondents waives service of rule. At the instance of both the sides the matter is taken up for final disposal.

The grievance of the petitioner is that appeal presented by the petitioner under the provisions of

Section 31(10) of the Gujarat Secondary Education Act has been dismissed on the ground that it is time barred. Under the said provision the person aggrieved by the decision of the Board under sub-section (6) or sub-section (9) can file an appeal within one month from the date on which such decision is communicated to him, to the State Government. It is contended on behalf of the petitioner that no hearing was given before making the impugned order. If appropriate hearing were given the petitioner could have demonstrated either that the appeal was filed within time or that there was sufficient ground to condone the delay or to consider the matter on merits. From the impugned order it does appear that the appeal of the petitioner is rejected as time barred without giving any hearing to the petitioner. The impugned order does not give any particulars as to how the appeal is treated as time barred. If the petitioner were given an opportunity of being heard it could have put up its case for consideration of the appeal on merits by pointing out either that it was within time or that there was sufficient ground for condonation of delay and that the authority had power to condone the delay. Under the circumstances the impugned order is hereby set aside and it is directed that the appellate authority will decide the appeal after hearing the petitioner including on the aspect of limitation. Rule is made absolute accordingly with no order as to costs.

00000